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9  
10 **IN THE UNITED STATES DISTRICT COURT**  
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
12 **OAKLAND DIVISION**

13 MICRON TECHNOLOGY, INC.,

14 Plaintiff,

15 v.

16 UNITED MICROELECTRONICS  
CORPORATION, FUJIAN JINHUA  
17 INTEGRATED CIRCUIT CO., LTD.,  
and DOES 1-10

18 Defendants.  
19  
20  
21

Case No. 4:17-CV-6932-JSW

DEFENDANT UNITED  
MICROELECTRONICS  
CORPORATION'S NOTICE OF MOTION  
AND MOTION TO DISMISS FOR LACK  
OF PERSONAL JURISDICTION

Judge: Hon. Jeffrey S. White  
Courtroom: 5, 2nd Floor  
Hearing date (preliminary): March 23, 2018  
Hearing time (preliminary): 9:00 a.m.

22 **NOTICE OF MOTION AND MOTION**

23 TO PLAINTIFF AND ITS ATTORNEYS OF RECORD:

24 PLEASE TAKE NOTICE that, on March 23, 2018, at 9:00 a.m. or as soon thereafter as  
25 counsel may be heard, in Courtroom 5 of the United States District Court for the Northern  
26 District of California, located at 1301 Clay Street, Oakland, California, defendant United  
27 Microelectronics Corporation ("UMC") will and hereby does move this Court, pursuant to Fed.  
28 R. Civ. P. 12(b)(2), for an order dismissing the Complaint by plaintiff Micron Technology, Inc.

1 (“Micron”) against it on the grounds that this Court lacks personal jurisdiction over UMC in this  
2 matter.

3 As set forth more fully below in the Memorandum of Points and Authorities, the causes  
4 of action asserted against UMC in the Complaint do not arise out of or relate to UMC’s *de*  
5 *minimis* contact with California. To the contrary, Micron’s causes of action arise out of and  
6 relate to activities taking place entirely in the Republic of China (“ROC” or “Taiwan”) and the  
7 People’s Republic of China (“PRC” or “Mainland China”). Moreover, all potential witnesses,  
8 documents and other sources of evidence are located in Taiwan and/or Mainland China. It is  
9 likewise clear that California has no interest in the outcome of this litigation while Taiwan both  
10 has an interest in, and is capable of, adjudicating Micron’s claims.

11 California law and the Fourteenth Amendment to the United States Constitution require  
12 that this action be dismissed because UMC and the allegations in the Complaint are insufficient  
13 as a matter of law to allow this Court to find specific jurisdiction, and Micron did not bother to  
14 assert general jurisdiction, as to do so would not be consistent with traditional notions of fair  
15 play and substantial justice. In short, this matter must be dismissed in its entirety.

16 This motion is based on this Notice of Motion and accompanying Memorandum of Points  
17 and Authorities, the declarations of Robert G. Litts and Jennifer Wang filed herewith, all  
18 pleadings and papers filed herein, and any argument of counsel or other matter as the Court may  
19 allow.

20 Respectfully submitted,

21  
22 Dated: February 15, 2018

DAN JOHNSON LAW GROUP LLP

23 /s/ Daniel Johnson Jr.

24 Daniel Johnson, Jr.

25 *Attorneys for Defendant*  
26 UNITED MICROELECTRONICS  
CORPORATION

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**MEMORANDUM OF POINTS AND AUTHORITIES****I. SUMMARY OF ARGUMENT**

Micron filed suit against UMC in this Court, but it asserts claims arising entirely in a foreign country. Micron alleges that UMC, from its headquarters in Taiwan, recruited away employees of another Taiwanese company, now called Micron Memory Taiwan (“MMT”), and that those employees misappropriated MMT trade secrets and used them in their new jobs with UMC in Taiwan. Micron further alleges that the trade secrets were incorporated into DRAM technology developed by UMC, and that UMC has or will transfer that technology to co-defendant Fujian Jinhua Integrated Circuit Co. Ltd. (“Jinhua”), a Chinese company, so Jinhua can produce DRAM products in Mainland China.

It bears emphasis that Micron does not allege this court has general jurisdiction over UMC. It did not do so because it cannot. The alleged theft of trade secrets and other related claims allegedly occurred in Taiwan and took place no later than August 2016. Instead, Micron attempts to invoke this Court’s specific jurisdiction over UMC based on a single contact between UMC and this District: a one-day visit by UMC employees to Santa Clara, California in October 2016, to attend a job fair held by a local semiconductor professional organization. That lone contact, which occurred well after the claims arose, as a matter of law does not satisfy the constitutional requirements to establish specific jurisdiction.

California law and the Due Process Clause of the Fourteenth Amendment require that Micron has the burden of establishing that its claims “arise from” UMC’s contacts with California as is necessary to establish specific personal jurisdiction here. It failed to meet that burden in this case and therefore Micron’s claims against UMC must be dismissed.

1 **II. RELEVANT FACTS**

2 **A. The Parties**

3 Micron is a Delaware corporation headquartered in Boise, Idaho. Complaint, ¶5. Micron  
4 alleges that it has three locations within the Northern District of California but makes no claim  
5 that they are relevant to its claims. Complaint, ¶5. In 2013 Micron acquired a majority  
6 ownership interest in a Taiwanese DRAM manufacturer, Rexchip Electronics Corporation  
7 (“Rexchip”), which it then renamed Micron Memory Taiwan Co., Ltd (“MMT”). Declaration of  
8 Robert G. Litts filed herewith (“Litts Decl.”), Ex. A at pp. 2, 9, 14-15, 33, 36-37, 47-48, 62-64,  
9 73, 79, 87, and Exhibit 21.1; Ex. B at p. 26.

10 Micron alleges that UMC, as part of a plan with Jinhua, hired employees away from  
11 MMT in Taiwan, intending to obtain trade secrets regarding MMT’s DRAM manufacturing  
12 technology. Complaint, ¶6. Micron alleges that it is the “sole owner of trade secrets in the  
13 Micron group of companies” and that “Micron in turn licenses its trade secrets to certain  
14 subsidiaries such as MMT to enable their business operations.” Complaint, ¶6. Micron does not  
15 specifically allege that legal title to the trade secrets at issue passed to Micron Technology, Inc.,  
16 or that they are licensed to MMT. *Id.*, ¶47 (“all legal *or equitable* title in these trade secrets is  
17 reposed in Micron.”).

18 UMC is incorporated under the laws of Taiwan, ROC and is headquartered in Hsinchu,  
19 Taiwan. Complaint, ¶7; Litts Decl., Ex. C at p. 23. UMC operates semiconductor fabrication  
20 plants where it manufactures, assembles, and tests semiconductor devices for its customers in  
21 accordance with the customers’ designs. *Id.* In industry parlance, UMC acts as a “foundry” for  
22 its customers. *Id.* UMC has no manufacturing facilities in the United States. *Id.* at pp. 28-29.  
23 In support of its foundry business, which is one of the oldest and most advanced in the world,  
24 UMC makes significant investments in research and development (“R&D”) relating to the  
25 semiconductor process technologies used by its wafer fabrication facilities. *Id.* at pp. 23, 30, 35,  
26 37, 52-53, 57. That R&D is carried out in Taiwan. *Id.* at p. 29. A UMC subsidiary based in this  
27 District, UMC Group (USA), provides sales and marketing services for UMC pursuant to an  
28 agreement between UMC and UMC Group (USA). *Id.* at pp. 35, 75; Ex. D. Micron’s

1 Complaint contains no allegations that UMC Group (USA) played any role in the acts or events  
2 giving rise to Micron's claims.

3 Jinhua is allegedly a Chinese company controlled by the Fujian Province of the PRC.  
4 Complaint, ¶8. Jinhua was allegedly formed for the purpose of manufacturing DRAM products  
5 in Mainland China. *Id.*, ¶2. Micron alleges that UMC entered into an agreement with Jinhua for  
6 UMC to develop DRAM technology that Jinhua will use to fabricate such products at a facility in  
7 Mainland China. *Id.*, ¶¶2, 8, 31.

8 **B. The Alleged Trade Secret Misappropriation in Taiwan**

9 Micron alleges that UMC and Jinhua engaged in a scheme to "recruit key personnel"  
10 from MMT to work for UMC, and to induce those former employees "to misappropriate  
11 electronic and paper files containing Micron trade secrets from MMT and deliver those trade  
12 secrets to UMC." Complaint, ¶2. Those trade secrets were then to be "incorporated . . . into  
13 technologies that [UMC] transferred and/or plans to transfer to Jinhua to enable Jinhua to mass  
14 produce advanced DRAM products" in Mainland China. *Id.* Micron identifies three former  
15 Rexchip employees who left after the Micron acquisition to work for UMC, and a fourth UMC  
16 employee who did not work for Micron, *id.*, ¶¶9-12, as involved in the acts of alleged  
17 misappropriation. According to Micron, Stephen Chen ("Chen") left MMT in 2015 to join UMC  
18 as a Senior Vice President to lead the effort to develop the DRAM technology to fulfill UMC's  
19 agreement with Jinhua. *Id.*, ¶¶9, 25. Micron does not accuse Chen of improperly taking any  
20 MMT trade secrets to UMC. Rather, Micron alleges that, after joining UMC, Chen recruited  
21 others at MMT to join UMC, intending those others to take and use Micron's alleged trade  
22 secrets. *Id.*, ¶¶9-11, 25. According to Micron, Chen enticed J.T. Ho ("Ho") to leave his job with  
23 MMT in Taiwan and to work under him at UMC in Taiwan. *Id.* Ho in turn allegedly recruited  
24 Kenny Wang ("Wang") to join UMC from MMT. *Id.*, ¶¶12, 27.

25 Micron alleges that Ho obtained hard copies of documents containing MMT trade secrets  
26 and stored electronic records containing Micron trade secrets on a personal USB storage device  
27 and on the hard drive of his personal laptop, and that he kept those materials after leaving MMT.  
28 Complaint, ¶26. After joining UMC, Ho allegedly accessed those electronic records from his



1 UMC-issued laptop, and also brought the paper documents to his office – all in Taiwan. *Id.*  
 2 Micron similarly alleges that, before leaving MMT, Wang used his MMT-issued laptop to access  
 3 electronic records containing Micron trade secrets, and then transferred those files to a USB  
 4 storage device and to his online Google Drive cloud storage account. *Id.*, ¶27. The final act of  
 5 alleged misappropriation came when Leh-Tian Rong (“Rong”), a UMC Assistant Vice President,  
 6 allegedly held a meeting in July or August 2016 attended by Wang and other UMC personnel.  
 7 Complaint, ¶¶32-33. At that meeting, Rong allegedly asked Wang to provide certain MMT trade  
 8 secrets concerning aspects of MMT’s technology that UMC was not able to learn by reverse  
 9 engineering. *Id.* Wang allegedly complied, incorporating the MMT trade secrets into the  
 10 DRAM manufacturing process then under development. *Id.* Again, all these individuals are  
 11 located in Taiwan, and all their actions are alleged to have taken place in Taiwan.

#### 12 **C. UMC’s Lone Alleged Contact with California**

13 Micron cites only one purposeful contact directed by UMC to California other than its  
 14 marketing and sales of completely unrelated foundry services pursuant to its agreement with  
 15 UMC Group (USA) – a visit to this District by Chen and other UMC employees to participate in  
 16 a job fair hosted by the Chinese American Semiconductor Professional Association (“CASPA”).  
 17 Complaint, ¶¶17, 35. That event was held in October 2016 in Santa Clara, California. *Id.*  
 18 Micron alleges that the positions UMC sought to fill related to its DRAM development effort  
 19 with Jinhua. *Id.* However, Micron’s attempt to imply that this lone contact had any relationship  
 20 to the alleged trade secret misappropriation is not supported by the facts. Micron does not allege  
 21 that it has any employees in the Silicon Valley with the DRAM expertise sought by UMC (or by  
 22 Jinhua). It does not allege that any of its employees were members of CASPA or that any  
 23 attended the October 2016 job fair. To the contrary, UMC spoke to no Micron employees at that  
 24 event, and received no inquiries from Micron employees in response to its involvement with  
 25 CASPA. Declaration of Jennifer Wang filed herewith (“Wang Decl.”). Micron also alleges that  
 26 electronic files containing its trade secrets were stored on servers maintained by Google “in the  
 27 United States” – but not specifically in California. *Id.*, ¶27.

To mask the paucity of facts to support its jurisdictional allegation, Micron alleges several other purported contacts between UMC and California. Complaint, ¶18. However, those contacts can have no bearing on jurisdiction for purposes of this case. For example, Micron alleges it entered into a non-disclosure agreement (“NDA”) with UMC on August 14, 2014 that is governed by California law. *Id.* That agreement predates the acts underlying Micron’s complaint by more than one year, and Micron makes no attempt to connect that NDA to its causes of action. *Id.* Micron also cites UMC’s sales of its unrelated foundry services to customers in the United States, through UMC Group (USA). *Id.* Again, Micron makes no attempt to link those sales to UMC’s alleged acts of trade secret misappropriation in Taiwan or its business arrangement with Jinhua in Mainland China. *Id.* Since these alleged contacts with California, like UMC’s single recruiting visit to California, are utterly unrelated to Micron’s causes of action, Micron has failed to meet its burden of establishing this Court’s jurisdiction over UMC in this case.

### III. ARGUMENT

#### A. Micron Fails to Establish Specific Jurisdiction in This Court over its Claims Against UMC

Micron bears the burden of establishing facts sufficient to establish that jurisdiction is proper in this Court. *Boschetto v. Hansing*, 539 F.3d 1011, 1015 (9th Cir. 2008). To resolve this issue the Court applies the law of the state in which it sits when there is no applicable federal statute governing personal jurisdiction. *Panavision Int’l, L.P. v. Toeppen*, 141 F.3d 1316, 1320 (9th Cir. 1998). As Micron alleges no federal statute governing personal jurisdiction in this case, California law governs. California’s long-arm statute allows courts to exercise personal jurisdiction to the extent permitted by the Due Process Clause of the United States Constitution. *Id.* at 1320. Either general (*i.e.* “all purpose”) jurisdiction or specific (*i.e.* “case-linked”) jurisdiction may satisfy the constitutional standard. *Bristol-Meyers Squibb Co. v. Superior Court*, 137 S. Ct. 1773, 1779-80 (2017).

Micron alleges only that “[t]his Court has *specific* personal jurisdiction over UMC” based on alleged acts of trade secret misappropriation and/or acts in furtherance of the conspiracy to

1 commit trade secret misappropriation taking place in California. Complaint, ¶17 (emphasis  
 2 added). Micron does not and cannot assert that UMC is subject to general jurisdiction in this  
 3 Court because it is not “at home” here, as it is both incorporated and headquartered in Taiwan,  
 4 not in California. *See, e.g. Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 919  
 5 (2011). Nevertheless, Micron alleges that “UMC continually engages in other commercial  
 6 activities in the United States, whereby it purposefully avails itself of the protections of U.S.  
 7 law.” *Id.*, ¶18. Micron attempts to support this conclusion by citing:

- 8 • UMC’s alleged non-disclosure agreement with Micron dated  
 9 August 14, 2014, which is be governed by, and construed under,  
 the laws of California; and
- 10 • UMC’s alleged sales in the United States, amounting to roughly  
 11 \$1.8 billion (and 43% of UMC’s foundry sales), through its United  
 States subsidiary, UMC Group (USA), located in the Northern  
 12 District of California.

13 *Id.* Even if true, however, these alleged contacts do not support a finding of either general or  
 14 specific jurisdiction. These limited activities in California, as alleged by Micron, clearly are not  
 15 “so substantial and of such a nature” as to present an “exceptional case” in which a company is  
 16 deemed “at home” for purposes of general jurisdiction somewhere other than its formal place of  
 17 incorporation or its principal place of business. *See Daimler AG v. Bauman*, 134 S. Ct. 746, 761  
 18 n.18 (2014). Moreover, Micron makes no attempt to allege that UMC’s “purposeful availment”  
 19 of the protections of U.S. law is related in any way to the claims raised in its Complaint. To the  
 20 extent that Micron is suggesting that these unrelated activities should be factored into the specific  
 21 jurisdiction determination here, that sort of “sliding scale” approach has been expressly rejected  
 22 by the Supreme Court as “a loose and spurious form of general jurisdiction.” *Bristol-Meyers*  
 23 *Squibb*, 137 S. Ct. at 1781. Therefore, the unrelated NDA between UMC and Micron allegedly  
 24 governed by California law, and the unrelated sales of UMC’s foundry services to U.S.  
 25 customers through UMC Group (USA), may not be considered when determining whether the  
 26 Court may exercise specific jurisdiction over UMC in this matter.

**B. The Complaint Does Not Allege Facts that “Arise out of or Relate to Actions in This Jurisdiction”**

Specific jurisdiction requires a direct relationship between the defendant’s contacts with the state and the underlying claims of the suit. *See Daimler*, 134 S. Ct. 746 at 754. In other words, “for a court to exercise specific jurisdiction over a claim, there must be an ‘affiliation between the forum and the underlying controversy, principally, [an] activity or an occurrence that takes place in the forum State.’” *Bristol-Meyers Squibb*, 137 S. Ct. at 1781 (quoting *Goodyear*, 564 U.S. at 919). “For this reason, ‘specific jurisdiction is confined to adjudication of issues deriving from, or connected with, the very controversy that establishes jurisdiction.’” *Bristol-Meyers Squibb*, 137 S. Ct. at 1780 (quoting *Goodyear*, 564 U.S. at 919). Accordingly, specific jurisdiction may be exercised only when “the suit ‘aris[es] out of or relate[s] to the defendant’s contacts with the forum.’” *Daimler*, 134 S. Ct. at 754 (quoting *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 414, n.8 (1984)).

The Ninth Circuit applies a three-pronged test to determine if it may exercise specific jurisdiction consistent with Due Process requirements:

- (1) The non-resident defendant must ***purposefully direct*** its activities or consummate some transaction with the forum or a resident thereof; or perform some act by which he ***purposefully avails*** himself of the privilege of conducting activities within the forum, thereby invoking the benefits and protections of its laws;
- (2) the claim must be one which ***arises out of or relates to*** the defendant’s forum-related activities; and
- (3) the exercise of jurisdiction must comport with fair play and substantial justice, i.e. it must be reasonable.

*Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 802 (9th Cir. 2004). The plaintiff bears the burden of establishing that the first two prongs of the test are satisfied. *Id.* at 802. If the plaintiff fails to establish either of these two prongs, Courts in the forum lack personal jurisdiction over the defendant. *Id.* at 802. If the plaintiff demonstrates that both the first and second prongs are met, “the burden then shifts to the defendant to ‘present a compelling case’ that the exercise of jurisdiction would not be reasonable.” *Id.* at 802 (quoting *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 476-78 (1985)).

1 UMC's only purposeful contact with California alleged in Micron's Complaint, other  
 2 than its foundry sales through UMC Group (USA), is the single alleged visit by UMC employees  
 3 to Santa Clara in October 2016, to participate in the CASPA job fair. Complaint, ¶17, 35. That  
 4 lone contact is a far cry from what is required to establish specific personal jurisdiction  
 5 consistent with federal due process requirements. None of Micron's claims arise out of that  
 6 contact under the controlling precedent. To the contrary, Micron's claims would have arisen  
 7 irrespective of that visit and, in fact, Micron's claims had already arisen in Taiwan before  
 8 UMC's employees attended the job fair. Moreover, even if that one recruiting visit could  
 9 somehow satisfy the first two prongs of the specific jurisdiction test – which it does not – the  
 10 circumstances surrounding this dispute are such that exercising jurisdiction over UMC in this  
 11 matter would be unreasonable. For these reasons, as demonstrated below, the exercise of  
 12 jurisdiction over UMC in this case would violate the Due Process Clause of the Fourteenth  
 13 Amendment.

14 To show that its claims “arise out of or relate” to UMC's forum-related, Micron must  
 15 establish that “but for” the defendant's forum-related contacts its claims would not have arisen.  
 16 *Ballard v. Savage*, 65 F.3d 1495, 1500 (9th Cir. 1995); *Ziegler v. Indian River County*, 64 F.3d  
 17 470, 474 (9th Cir. 1995) (Plaintiff's claims would not have arisen but for defendant's forum-  
 18 related actions). There is simply no “but for” relationship between UMC's recruiting visit (or  
 19 any of UMC's other alleged forum-directed contacts) and the claims asserted against it in  
 20 Micron's Complaint. All of Micron's claims “arise from” and “relate to” the alleged acts of  
 21 trade secret misappropriation taking place in Taiwan between October 2015 and August 2016.  
 22 *See* Complaint, ¶¶25-34. All of those claims would have existed regardless of UMC's single  
 23 effort to recruit potential employees in this District. This is underscored by the fact that the acts  
 24 of alleged trade secret theft were completed – in Taiwan – *before* UMC's contact with  
 25 California. For these reasons there is no but-for relationship between that visit and Micron's  
 26 claims.

27 Micron makes cursory allegations that UMC engaged in acts of trade secret  
 28 misappropriation under the DTSA “in at least Taiwan, Mainland China and the Northern District

1 of California,” Complaint, ¶53, and that those same acts, undertaken “abroad and in California,”  
 2 constitute “racketeering activities”. *Id.*, ¶65-69 and 76. But Micron’s complaint is devoid of any  
 3 alleged facts showing that the recruiting visit to California involved or gave rise to any act of  
 4 trade secret misappropriation. Even so, Micron’s claims had already arisen by the time of that  
 5 visit, negating any but-for relationship. Trade secret misappropriation is not deemed a  
 6 “continuing wrong” under California law; rather, the wrong is deemed “committed when the first  
 7 act of misappropriation occurs, i.e. when a defendant commits the first act in breach of his duty  
 8 of confidentiality, and [therefore] subsequent additional acts of misappropriation are not deemed  
 9 new ‘wrongs’ ... [and] are of significance only in calculating damages.” *Intermedics, Inc. v.*  
 10 *Ventritex, Inc.*, 822 F. Supp. 634, 649-50 (N.D. Cal. 1993). Accordingly, “any subsequent  
 11 additional acts of misappropriation of ... trade secrets [after the first occurrence] cannot be  
 12 considered ‘in furtherance’ of the alleged conspiracy ....” *Id.* at 650. Because Micron cannot  
 13 show that its claims would not have arisen “but for” UMC’s lone contact with this District, there  
 14 is no personal jurisdiction and the Complaint must be dismissed.

15 **C. Micron’s Allegations That Files Were Uploaded To a Google Drive Account**  
 16 **Do Not Confer Jurisdiction**

17 The Court need not seriously consider the allegation that Wang uploaded files containing  
 18 Micron’s alleged trade secrets to a Google Drive cloud storage server when he left Micron. This  
 19 assertion is legally insufficient and factually flawed. First, the bare allegation that Wang  
 20 uploaded Micron trade secrets to “servers located in the United States ...” does not connect that  
 21 activity to *California*.<sup>1</sup> Moreover, this Court recently rejected the access of Google online  
 22 services as a sufficient basis for jurisdiction. In *Kazakhstan v. Ketebaev*, 2017 U.S. Dist. LEXIS  
 23 211198, (N.D. Cal. Dec. 21, 2017), the defendant allegedly “expressly aimed actions at  
 24 California by hacking . . . Gmail accounts” because Google is headquartered in California. *Id.* at

25 \_\_\_\_\_  
 26 <sup>1</sup> Micron’s jurisdictional allegation is premised on UMC’s acts “in the Northern District of  
 27 California.” Complaint, ¶17. Nevertheless, if Micron argues that jurisdiction for its federal  
 28 DTSA and RICO claims should be judged on UMC’s contacts with the United States as a whole,  
 pursuant to Fed. R. Civ. P. 4(k)(2), the outcome would be the same because California law is  
 coextensive with the Constitution.

1 \*18-19. Recognizing that “Google’s servers that store its users’ emails ‘can be located anywhere  
 2 in the world.” the court held that the plaintiff “has not sufficiently established that the hacking  
 3 involved ‘entering California, contacting anyone in California, or otherwise reaching out to  
 4 California.’” *Id.* at \*19. *See also* *OOO Brunswick Rail Mgmt. v. Sultanov*, 2017 U.S. Dist.  
 5 LEXIS 8374, \*10 (N.D. Cal. Jan. 20, 2017). (“even if true, ... allegations – that [defendants]  
 6 sent confidential materials to Gmail accounts, and that Google and its servers are located in  
 7 California -- do not establish specific personal jurisdiction.”).

8 Second, even if this allegation could support jurisdiction, it is factually flawed.  
 9 According to its public statements, Google does not maintain any data servers in California.  
 10 Litts Decl., Ex. E. Google does, however, maintain a data center in Taiwan. *Id.* There is no  
 11 factual basis for Micron’s claim that Wang’s alleged act of uploading files to a Google storage  
 12 service had any connection with California (or any other state). Rather, it is just as likely, if not  
 13 more so, that the data was stored on servers in Taiwan, far closer to the location from where  
 14 Wang allegedly uploaded them. Finally, Micron does not allege that Wang knew where Google  
 15 would store his files, much less that Wang intended to store those files on servers located in  
 16 California (or even the U.S. generally). As such, Wang, and by extension UMC, did not  
 17 purposefully direct or aim any contact to California. *See Anthony Cal., Inc. v. Fire Power Co.*,  
 18 2015 U.S. Dist. LEXIS 190232, at \*15-16 (C.D. Cal. Dec. 3, 2015) (“Without knowledge that  
 19 the alleged confidential information was stored on servers in California, as opposed to the cloud  
 20 or an off-site facility, it cannot be said that James Moran ‘expressly aimed’ his allegedly  
 21 infringing use of Plaintiff’s website at California.”).

22 Since Micron has not alleged that Wang knew the locations of Google’s servers and  
 23 intended to store the data on servers at those locations, Micron cannot use Wang’s alleged use of  
 24 Google storage to support its jurisdiction claim.

25 **D. It Would Be Unreasonable for this Court to Assert Specific Personal**  
 26 **Jurisdiction over UMC in This Case**

27 Even if UMC’s contacts were sufficient under the first and second prongs of the  
 28 constitutional analysis, jurisdiction over Micron’s claims against UMC in this case would not



1 comport with traditional notions of fair play and substantial justice, and therefore would violate  
 2 the Due Process Clause. Evaluating the reasonableness of exercising specific personal  
 3 jurisdiction involves examining seven factors:

- 4 (1) the extent of the defendant's purposeful injection into the  
forum;
- 5 (2) the defendant's burdens from litigating in the forum;
- 6 (3) the extent of conflict with the sovereignty of the defendant's  
7 state;
- 8 (4) the forum state's interest in adjudicating the dispute;
- 9 (5) the most efficient judicial resolution of the controversy;
- 10 (6) the importance of the forum to the plaintiff's interest in  
convenient and effective relief; and
- 11 (7) the existence of an alternative forum.

12  
 13 *Ziegler v. Indian River County*, 64 F.3d 470, 474-75 (9th Cir. 1995). Each of these seven factors  
 14 must be evaluated in determining reasonableness, and no single factor is dispositive. *Id.* All  
 15 seven factors strongly demonstrate that the exercise of specific personal jurisdiction over UMC  
 16 in this case would be unreasonable and unconstitutional.

### 17 **1. Purposeful Interjection**

18 “Even if there is sufficient ‘interjection’ into the state to satisfy the [purposeful direction  
 19 prong], the degree of interjection is a factor to be weighed in assessing the overall reasonableness  
 20 of jurisdiction . . .” *Kazakhstan*, 2017 U.S. Dist. LEXIS, 211198, at \*28-29 (quoting *Ins. Co. of*  
 21 *N. Am. v. Marina Salina Cruz*, 649 F.2d 1266, 1271 (9th Cir. 1981). “The smaller the element of  
 22 purposeful interjection, the less is jurisdiction to be anticipated and the less reasonable is its  
 23 exercise.” *Id.* Here, UMC's only “interjection” into California for purposes of Micron's claims  
 24 was its alleged participation in the CASPA job fair. As explained above, this single interjection  
 25 was brief, transitory, and had no connection with or effect on Micron, and is unrelated to any of  
 26 the claims at issue in this case. This limited interjection into California cannot be deemed  
 27 significant, and therefore this factor weighs against exercising jurisdiction in this case.





#### 4. Forum State's Interest

While a state may have a “strong interest in providing an effective means of redress for its residents tortuously injured,” *Kazakhstan*, 2017 U.S. Dist. LEXIS, 211198, at \*32 (quoting *Panavision*, 141 F.3d at 1323), Micron is not a resident of California. It is a Delaware company headquartered in Idaho. Complaint, ¶5. The alleged trade secrets were allegedly stolen from MMT, a Taiwanese subsidiary of Micron, by MMT’s former Taiwanese employees. *Id.*, ¶¶11-12, 32-33. UMC is a Taiwanese company headquartered in Taiwan, and Jinhua is a Chinese company headquartered in Mainland China. *Id.*, ¶¶7-8. The State of California has no interest in adjudicating this case. This factor weighs against exercising jurisdiction in this case.

#### 5. Efficient Resolution

The fifth factor “focuses on the location of the evidence and witnesses.” *Kazakhstan*, 2017 U.S. Dist. LEXIS, 211198, at \*33 (quoting *Panavision*, 141 F.3d at 1324). Here, all UMC and Jinhua employees who are mentioned in the Complaint or are likely to be potential witnesses reside in Taiwan or Mainland China. Micron’s witnesses are also likely to reside in either Taiwan or Idaho. Similarly, the physical evidence, such as documents and computer storage devices, is all alleged to be located in Taiwan. This factor weighs strongly against exercising jurisdiction in this case.

#### 6. Convenient and Effective Relief for Plaintiff

The sixth factor recognizes that “[c]onsideration should also be given to the plaintiff’s interest in obtaining convenient and effective relief.” *Kazakhstan*, 2017 U.S. Dist. LEXIS, 211198, at \*34 (quoting *Ins. Co.*, 649 F.2d at 1273). This factor, however, “should not weigh heavily in the analysis.” *Id.* (quoting *Harris Rutsky*, 328 F.3d at 1133). Even though this factor is discounted in the reasonableness analysis, there is no reason to believe that this is the only forum offering convenient and effective relief for Micron. As discussed below, Micron may pursue its claims in Taiwan or elsewhere. This factor weighs against exercising jurisdiction in this case.

## 7. Taiwan Is an Alternative Forum

The seventh factor involves “determin[ing] whether an adequate alternative forum exists. The plaintiff bears the burden of proving the unavailability of an alternative forum.” *Kazakhstan*, 2017 U.S. Dist. LEXIS, 211198, at \*35 (quoting *Harris Rutsky*, 328 F.3d at 1133-34). Here, there is no reason to believe that Taiwan would not provide an adequate forum for Micron’s civil claims. *See, e.g., Cheng v. Boeing Co.*, 708 F.2d 1406, 1411 (9th Cir. 1983) ([t]he district court did not abuse its discretion in finding that Boeing’s assertion that Taiwan was an adequate forum was supported by sufficient evidence.”) It is evident that Plaintiff will be unable to meet its burden of proving the unavailability of an alternative forum. This weighs against exercising jurisdiction in this case.

Every single factor in the reasonableness test weighs against – most often heavily against – exercising jurisdiction over UMC in this case. Rather, those factors strongly demonstrate that this dispute should be resolved where they arose and where the majority of the evidence is located – in Taiwan. Therefore, even if Micron had met its burden of satisfying the first two prongs of the test for exercising specific personal jurisdiction – which it has not – it would nonetheless be unreasonable to subject UMC to jurisdiction in the Northern District of California. Doing so would violate the Due Process Clause of the Fourteenth Amendment.

## CONCLUSION

For the foregoing reasons, the Court should dismiss the Complaint in its entirety with prejudice.

DATED: February 15, 2018

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